

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by changing
5 Section 16-125 as follows:

6 (220 ILCS 5/16-125)

7 Sec. 16-125. Transmission and distribution reliability
8 requirements.

9 (a) To assure the reliable delivery of electricity to all
10 customers in this State and the effective implementation of the
11 provisions of this Article, the Commission shall, within 180
12 days of the effective date of this Article, adopt rules and
13 regulations for assessing and assuring the reliability of the
14 transmission and distribution systems and facilities that are
15 under the Commission's jurisdiction.

16 (b) These rules and regulations shall require each electric
17 utility or alternative retail electric supplier owning,
18 controlling, or operating transmission and distribution
19 facilities and equipment subject to the Commission's
20 jurisdiction, referred to in this Section as "jurisdictional
21 entities", to adopt and implement procedures for restoring
22 transmission and distribution services to customers after
23 transmission or distribution outages on a nondiscriminatory

1 basis without regard to whether a customer has chosen the
2 electric utility, an affiliate of the electric utility, or
3 another entity as its provider of electric power and energy.
4 These rules and regulations shall also, at a minimum,
5 specifically require each jurisdictional entity to submit
6 annually to the Commission.

7 (1) the number and duration of planned and unplanned
8 outages during the prior year and their impacts on
9 customers;

10 (2) outages that were controllable and outages that
11 were exacerbated in scope or duration by the condition of
12 facilities, equipment or premises or by the actions or
13 inactions of operating personnel or agents;

14 (3) customer service interruptions that were due
15 solely to the actions or inactions of an alternative retail
16 electric supplier or a public utility in supplying power or
17 energy;

18 (4) a detailed report of the age, current condition,
19 reliability and performance of the jurisdictional entity's
20 existing transmission and distribution facilities, which
21 shall include, without limitation, the following data:

22 (i) a summary of the jurisdictional entity's
23 outages and voltage variances reportable under the
24 Commission's rules;

25 (ii) the jurisdictional entity's expenditures for
26 transmission construction and maintenance, the ratio

1 of those expenditures to the jurisdictional entity's
2 transmission investment, and the average remaining
3 depreciation lives of the entity's transmission
4 facilities, expressed as a percentage of total
5 depreciation lives;

6 (iii) the jurisdictional entity's expenditures for
7 distribution construction and maintenance, the ratio
8 of those expenditures to the jurisdictional entity's
9 distribution investment, and the average remaining
10 depreciation lives of the entity's distribution
11 facilities, expressed as a percentage of total
12 depreciation lives;

13 (iv) a customer satisfaction survey covering,
14 among other areas identified in Commission rules,
15 reliability, customer service, and understandability
16 of the jurisdictional entity's services and prices;
17 and

18 (v) the corresponding information, in the same
19 format, for the previous 3 years, if available;

20 (5) a plan for future investment and reliability
21 improvements for the jurisdictional entity's transmission
22 and distribution facilities that will ensure continued
23 reliable delivery of energy to customers and provide the
24 delivery reliability needed for fair and open competition;
25 and

26 (6) a report of the jurisdictional entity's

1 implementation of its plan filed pursuant to subparagraph
2 (5) for the previous reporting period.

3 (c) The Commission rules shall set forth the criteria that
4 will be used to assess each jurisdictional entity's annual
5 report and evaluate its reliability performance. Such criteria
6 must take into account, at a minimum: the items required to be
7 reported in subsection (b); the relevant characteristics of the
8 area served; the age and condition of the system's equipment
9 and facilities; good engineering practices; the costs of
10 potential actions; and the benefits of avoiding the risks of
11 service disruption.

12 (d) At least every 3 years, beginning in the year the
13 Commission issues the rules required by subsection (a) or the
14 following year if the rules are issued after June 1, the
15 Commission shall assess the annual report of each
16 jurisdictional entity and evaluate its reliability
17 performance. The Commission's evaluation shall include
18 specific identification of, and recommendations concerning,
19 any potential reliability problems that it has identified as a
20 result of its evaluation.

21 (e) In the event that more than either (i) 30,000 of the
22 total customers or (ii) 0.8% of the total customers, whichever
23 is less, of an electric utility are subjected to a continuous
24 power interruption of 4 hours or more that results in the
25 transmission of power at less than 50% of the standard voltage,
26 or that results in the total loss of power transmission, the

1 utility shall be responsible for compensating customers
2 affected by that interruption for 4 hours or more for all
3 actual damages, which shall not include consequential damages,
4 suffered as a result of the power interruption. The utility
5 shall also reimburse the affected municipality, county, or
6 other unit of local government in which the power interruption
7 has taken place for all emergency and contingency expenses
8 incurred by the unit of local government as a result of the
9 interruption. A waiver of the requirements of this subsection
10 may be granted by the Commission in instances in which the
11 utility can show that the power interruption was a result of
12 any one or more of the following causes:

13 (1) Unpreventable damage due to weather events or
14 conditions.

15 (2) Customer tampering.

16 (3) Unpreventable damage due to civil or international
17 unrest or animals.

18 (4) Damage to utility equipment or other actions by a
19 party other than the utility, its employees, agents, or
20 contractors.

21 Loss of revenue and expenses incurred in complying with this
22 subsection may not be recovered from ratepayers.

23 (f) In the event of a power surge or other fluctuation that
24 causes damage and affects more than either (i) 30,000 of the
25 total customers or (ii) 0.8% of the total customers, whichever
26 is less, the electric utility shall pay to affected customers

1 the replacement value of all goods damaged as a result of the
2 power surge or other fluctuation unless the utility can show
3 that the power surge or other fluctuation was due to one or
4 more of the following causes:

5 (1) Unpreventable damage due to weather events or
6 conditions.

7 (2) Customer tampering.

8 (3) Unpreventable damage due to civil or international
9 unrest or animals.

10 (4) Damage to utility equipment or other actions by a
11 party other than the utility, its employees, agents, or
12 contractors.

13 Loss of revenue and expenses incurred in complying with this
14 subsection may not be recovered from ratepayers. Customers with
15 respect to whom a waiver has been granted by the Commission
16 pursuant to subparagraphs (1)-(4) of subsections (e) and (f)
17 shall not count toward the either (i) 30,000 of the total
18 customers or (ii) 0.8% of the total customers required therein.

19 (g) Whenever an electric utility must perform planned or
20 routine maintenance or repairs on its equipment that will
21 result in transmission of power at less than 50% of the
22 standard voltage, loss of power, or power fluctuation (as
23 defined in subsection (f)), the utility shall make reasonable
24 efforts to notify potentially affected customers no less than
25 24 hours in advance of performance of the repairs or
26 maintenance.

1 (h) Remedies provided for under this Section may be sought
2 exclusively through the Illinois Commerce Commission as
3 provided under Section 10-109 of this Act. Damages awarded
4 under this Section for a power interruption shall be limited to
5 actual damages, which shall not include consequential damages,
6 and litigation costs. A utility's request for a waiver of this
7 Section shall be timely if filed no later than 30 days after
8 the date on which a claim is filed with the Commission seeking
9 damages or expense reimbursement under this Section. No utility
10 shall be liable under this Section while a request for waiver
11 is pending. Damage awards may not be paid out of utility rate
12 funds.

13 (i) The provisions of this Section shall not in any way
14 diminish or replace other civil or administrative remedies
15 available to a customer or a class of customers.

16 (j) The Commission shall by rule require an electric
17 utility to maintain service records detailing information on
18 each instance of transmission of power at less than 50% of the
19 standard voltage, loss of power, or power fluctuation (as
20 defined in subsection (f)), that affects 10 or more customers.
21 Occurrences that are momentary shall not be required to be
22 recorded or reported. The service record shall include, for
23 each occurrence, the following information:

24 (1) The date.

25 (2) The time of occurrence.

26 (3) The duration of the incident.

1 (4) The number of customers affected.

2 (5) A description of the cause.

3 (6) The geographic area affected.

4 (7) The specific equipment involved in the fluctuation
5 or interruption.

6 (8) A description of measures taken to restore service.

7 (9) A description of measures taken to remedy the cause
8 of the power interruption or fluctuation.

9 (10) A description of measures taken to prevent future
10 occurrence.

11 (11) The amount of remuneration, if any, paid to
12 affected customers.

13 (12) A statement of whether the fixed charge was waived
14 for affected customers.

15 Copies of the records containing this information shall be
16 available for public inspection at the utility's offices, and
17 copies thereof may be obtained upon payment of a fee not
18 exceeding the reasonable cost of reproduction. A copy of each
19 record shall be filed with the Commission and shall be
20 available for public inspection. Copies of the records may be
21 obtained upon payment of a fee not exceeding the reasonable
22 cost of reproduction.

23 (k) The requirements of subsections (e) through (j) of this
24 Section shall apply only to an electric public utility having
25 100,000 ~~1,000,000~~ or more customers.

26 (l) Notwithstanding any other rulemaking authority that

1 may exist, neither the Governor nor any agency or agency head
2 under the jurisdiction of the Governor has any authority to
3 make or promulgate rules to implement or enforce the provisions
4 of this amendatory Act of the 95th General Assembly. If,
5 however, the Governor believes that rules are necessary to
6 implement or enforce the provisions of this amendatory Act of
7 the 95th General Assembly, the Governor may suggest rules to
8 the General Assembly by filing them with the Clerk of the House
9 and the Secretary of the Senate and by requesting that the
10 General Assembly authorize such rulemaking by law, enact those
11 suggested rules into law, or take any other appropriate action
12 in the General Assembly's discretion. Nothing contained in this
13 amendatory Act of the 95th General Assembly shall be
14 interpreted to grant rulemaking authority under any other
15 Illinois statute where such authority is not otherwise
16 explicitly given. For the purposes of this amendatory Act of
17 the 95th General Assembly, "rules" is given the meaning
18 contained in Section 1-70 of the Illinois Administrative
19 Procedure Act, and "agency" and "agency head" are given the
20 meanings contained in Sections 1-20 and 1-25 of the Illinois
21 Administrative Procedure Act to the extent that such
22 definitions apply to agencies or agency heads under the
23 jurisdiction of the Governor.

24 (Source: P.A. 90-561, eff. 12-16-97.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.